

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CITY OF GREENSBURG,)	
)	
Plaintiff,)	
)	
vs.)	2:15cv00480 TFM
)	
KEITH MAYDAK,)	
)	
Defendant.)	

MOTION TO STAY

Defendant Keith Maydak (“Maydak”) filed an appeal and a petition for writ of mandamus to the United States Court of Appeals for the Third Circuit. An appeal is allowed for the remand of this Court’s decision under 28 USC 1443. However, the remedy for this Court’s diversity decision is a Petition for Writ of Mandamus, not an appeal. *See*, e.g., *Carnegie Mellon Univ. v. Cohill*, 484 US 343 (1985), fn 4 (noting that petitioners filed a notice of appeal and petition for mandamus and that the Third Circuit dismissed the appeal but heard the case on mandamus).

Ordinarily, when a Court remands a case, it does not do so forthwith to allow the parties a chance to appeal and/or file for mandamus. It appears that the Clerk has already mailed the record back to the state court. This will create two parallel proceedings—one in the federal Court of Appeals and one in the state court which could result in chaos and confusion.

In addition, if documents are filed in the state court that show the amount in controversy exceeds \$75,000, such as via discovery establishing the amount of the demolition, then the case will be ripe again for removal. If the appeal is pending, it would create two federal court proceedings.

Finally, serious questions exist as to whether this Court’s remand was correct. Specifically, the Court relied on the civil cover sheet by the City of Greensburg. This unverified document, which is simply a case management document, does not create evidence. In addition, this Court did not provide

any opportunity for defendant to respond to the Motion to Remand.

WHEREFORE, Defendant respectfully requests that this Court stay its remand of the case pending the appeal and petition for writ of mandamus filed today.

Respectfully submitted,

/s/ Keith Maydak

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DEFENDANT

CERTIFICATE OF SERVICE

I certify that the following persons will receive service of this document through the Court's ECF system:

Bernard T. McArdle
229 South Maple Avenue
Greensburg, PA 15601

Dated this 23rd day of April, 2015.

/s/ Keith Maydak